

REMARKS

Claims 1-29 were originally presented in the subject application. Claims 22, 27 and 29 were amended in a response dated November 17, 2007. No claims have herein been added or amended. Claims 13-29 have herein been canceled without prejudice in order to separate the non-method claims. Applicant reserves the right to file the non-method claims in a continuing application. Therefore, claims 1-12 remain in this case.

The addition of new matter has been scrupulously avoided. In that regard, the amendments merely cancel non-method claims.

Applicant respectfully requests entry of this amendment, and reconsideration and withdrawal of the sole remaining ground of rejection.

35 U.S.C. §103 Rejection

The final Office Action rejected claims 1-6, 8, 10, 11, 13-18, 20-27 and 29 under 35 U.S.C. §103, as allegedly obvious over Afergan et al. (U.S. Patent Application Publication No. 2004/0010601) in view of Yoshida (U.S. Patent Application Publication No. 2004/0049546). Applicant respectfully, but most strenuously, traverses this rejection.

*Afergan Non-Analogous Art*

As an initial matter, Applicant submits that each of Afergan, Yoshida, Banister, Mizuno and Clarke is improperly cited against the present application as non-analogous art. The determination that a given reference is non-analogous art involves two steps, looking at the reference alone. *Heidelberger Druckmaschinen AG v. Hantscho Commercial Products Inc.*, 30 U.S.P.Q.2d 1377, 1379 (Fed. Cir. 1994); *In re Wood and Eversole*, 599 F.2d 1032, 202 U.S.P.Q. 171, 174 (CCPA 1979). The MPEP also describes the two-part test similarly. Thus, each reference must be addressed by itself to determine whether it qualifies as analogous art.

First, the reference is reviewed alone as to whether it is within the field of the Applicants' endeavor. *Id.* Second, if the reference is *not* in the field of endeavor, then a determination is made, again looking at the reference alone, as to whether the reference is reasonably pertinent to the particular problem the inventor sought to solve. *Id.*

In determining what the field of endeavor is, courts have looked to the field of endeavor set out in a patent or patent application. See, e.g., *In re Wood and Eversole*, 599 F.2d 1032, 202 U.S.P.Q. 171 (CCPA 1979). In the present case, the field of endeavor is set out in numbered paragraph 0001 as being generally related to electronic mail delivery, and in particular, to facilitating the sending of email from a restricted communications network. The field of endeavor is also echoed in the preamble of claim 1, for example.

Applicant submits that Afergan is not within the field of Applicant's endeavor, as it is not related to sending mail from a restricted communications network. In Afergan, the requests originate from users and flow to the content server. There is no indication in Afergan that the user requests come from a restricted network. Thus, Afergan is not within the field of Applicant's endeavor.

Since Afergan fails the first part of the test, we move on to the second step of the non-analogous art test; that is, it must be determined whether the reference is reasonably pertinent to the particular problem the inventor sought to solve. As set forth in the Background section of the present application, the problem is that of restricted communications networks, in which standard mechanisms for sending email are disabled, requiring manual intervention to send email out of the restricted network. Applicant submits that Afergan is not reasonably pertinent to the noted problem, since it is concerned with shielding the content server (at the other end) from unwanted inbound access, and not with getting email out of a restricted network. There is no disclosure in Afergan, for example, regarding the user requests coming out of a restricted network, standard sending protocols being disabled, or manual intervention to get user requests (much less email) out as a result. As a consequence, Applicant submits that Afergan is not reasonably pertinent to the problem the inventor sought to solve.

Therefore, Applicant submits that Afergan is improperly cited against the present application as non-analogous art.

Likewise, Applicant submits that Yoshida is not within the field of Applicant's endeavor, as it is not concerned with sending email out of a restricted network. Instead, it is concerned with the receiving end of email, getting it to the recipients.

Moving onto the second step, Applicant submits Yoshida is not reasonably pertinent to the problem of restricted communications networks, in which standard mechanisms for sending email are disabled, requiring manual intervention to send email out of the restricted network. As noted above, Yoshida is concerned with receiving email, not sending it or sending it out of a restricted network.

Therefore, Applicant submits Yoshida is improperly cited as non-analogous art.

Banister, like Yoshida, is concerned with the receiving end – trying to reduce emails being bounced by a recipient's email server. Banister is not concerned with sending email out of a restricted network, and, thus, is not within Applicant's field of endeavor.

Moving on to the second step of the non-analogous art test for Banister, whether it is reasonably pertinent to the problem of restricted communications networks, in which standard mechanisms for sending email are disabled, requiring manual intervention to send email out of the restricted network, numbered paragraph 0012 of Banister describes a conventional network setup in which email flows freely out of the network, but bringing files into the network is difficult. Banister is concerned with the duplication of files from outside the network to inside so that users can access the same. Thus, Applicant submits Banister is not reasonably pertinent to the problem.

Therefore, Applicant submits Banister is improperly cited as non-analogous art.

Finally, Clarke is concerned with sending alerts to mobile devices regarding mail received. Mail flows freely, and, thus, Clarke is not concerned with sending email out of a restricted network. As such, Clarke is not within the field of Applicant's endeavor.

Clarke is also not reasonably pertinent to the problem of restricted communications networks, in which standard mechanisms for sending email are disabled, requiring manual intervention to send email out of the restricted network. No such problem exists in Clarke, which focuses on mobile alerts for email received. Thus, Clarke is not reasonably pertinent to the problem sought to be solved by Applicant.

Therefore, Applicant submits Clarke is improperly cited as non-analogous art.

#### *Prior Art Rejections*

Moving onto the specific rejections, claim 1 recites a method of facilitating the sending of mail from a restricted communications network. The method comprises automatically checking periodically by a communications unit external to a *restricted communications network* whether mail of the restricted communications network is to be sent, and retrieving by the communications unit the mail from the restricted communications network, in response to there being mail to be sent.

Applicant submits that the final Office Action at pages 2-3 unfairly characterizes the claims, improperly paraphrasing some limitations and ignoring others. Applicant submits that the wording of the claim language must be compared to the cited art, not a version of the claims remodeled to suit the rejection. In that regard, Applicant does not acquiesce to the allegations presented.

Afergan teaches routing user requests for content to a shield (group of content delivery servers), then from the shield through a firewall to the server able to access the content. See, e.g., the Summary of Afergan. The purpose is to protect the content server.

Applicant agrees with the final Office Action that Afergan does not expressly disclose checking to see if mail should be delivered, either externally or internally. Instead, the final Office Action again cites to Yoshida.

Yoshida teaches a mail system where a central mail server receives mail for multiple client domains. A client-side mail server at each domain checks for mail, which, when present, is sent from the central mail server to the client-side mail server. The client-side mail server then distributes the mail to individual users.

Applicant submits that neither Afergan nor Yoshida, nor their combination, discloses, teaches or suggests, for example, a restricted communications network, nor mail being sent from such a network, nor checking for such mail, nor doing so periodically. The user requests for content in Afergan do not come out of a restricted network, and Yoshida does not remedy this, there being no teaching or suggestion in Yoshida of mail coming out of a restricted network.

As another example, since the cited art fails to teach or suggest email coming out of a restricted communications network, Applicant submits the art cannot logically teach or suggest retrieving mail from such a network. In Afergan, the user requests simply go out without constraint to the shield, and in Yoshida the email is coming *to* the recipients, Yoshida not being concerned with the email sending (originating) side, only from the central server to the recipients.

Therefore, Applicant submits that claim 1 cannot be obviated over Afergan in view of Yoshida.

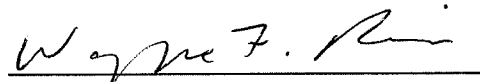
#### CONCLUSION

Applicant submits that the dependent claims not specifically addressed herein are allowable for the same reasons as the independent claims from which they directly or ultimately depend, as well as for their additional limitations.

For all the above reasons, Applicant maintains that the claims of the subject application define patentable subject matter and earnestly request allowance of claims 1-12.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Wayne F. Reinke", is written over a horizontal line.

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